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7 DAVID L. FREDRICK;
ASSOCIATION OF AMERICAN
8 INTERNATIONAL MEDICAL GRADUATES, INC.,
SABA UNIVERSITY SCHOOL OF MEDICINE
9 FOUNDATION, EDUCATION INFORMATION
CONSULTANTS, INC., EDUCATIONAL
10 INTERNATIONAL CONSULTANTS, LLC, and
11 PANKAJ DESAI, M.D.

12
13 UNITED STATES DISTRICT COURT
14 DISTRICT OF NEVADA

15 ST. MATTHEW'S UNIVERSITY)Case No.: CV-S-05-0848-RCJ(LRL)
16 (CAYMAN) LTD., a Cayman Islands company,)
17)
Plaintiff,)
18)
19 vs.)
20 SABA UNIVERSITY SCHOOL OF)
MEDICINE FOUNDATION, a Netherland-)
21 Antilles company; MEDICAL UNIVERSITY)
OF THE AMERICAS, a St. Kitts & Nevis)
22 company; EDUCATION INFORMATION)
CONSULTANTS, INC., a Massachusetts)
23 corporation; EDUCATIONAL INTERNATIONAL)
CONSULTANTS, LLC, a Massachusetts)
24 limited liability company; PATRICIA L. HOUGH,)
M.D. an individual, and d.b.a. "Saba University)
25 School of Medicine"; DAVID L. FREDRICK, an)
individual; PANKAJ DESAI, M.D., an individual;)
26 ASSOCIATION OF AMERICAN)
27 INTERNATIONAL MEDICAL GRADUATES,)
INC., a Nevada corporation, a.k.a.)
28

1 "aaimg@yahoo.com"; THOMAS MOORE, M.D.)
 2 a.k.a. "presaaimg@hotmail.com" and)
 3 "crocdoc2004@netzero.net," an individual;)
 4 SARAH B. WEINSTEIN a.k.a.)
 5 "execsecaaimg@hotmail.com," an individual;)
 6 RACHAEL E. SILVER, an individual; and)
 7 DIEDRE MOORE, an individual,)
 8)
 9 Defendants.)

7 **MOTION OF PATRICIA L. HOUGH TO REMOVE DEFAULT**
 8 **OF SARAH WEINSTEIN, RACHAEL SILVER, DIEDRE MOORE**
 9 **AND THOMAS MOORE, M.D.**

9 Defendant Patricia L. Hough, M.D. ("Hough") hereby moves this Court to
 10 Remove the Default of Sarah Weinstein, Rachael Silver, Diedre Moore and Thomas
 11 Moore, M.D. entered by this Court on July 13, 2006. As grounds for this Motion, Hough
 12 states that:
 13

14 1. Plaintiff's Amended Complaint alleges that "Thomas Moore, Sarah
 15 Weinstein, Rachael Silver, and Diedre Moore are fictitious identities fabricated and
 16 used by Defendants Hough [and others]" See Amended Complaint, paragraph 65.

17 If, as Plaintiff alleges, the foregoing individuals do not exist but rather are fictitious
 18 identities, there is no case or controversy because such a judgment would be a nullity
 19 because it would not affect the rights of either plaintiff or defendants.
 20

21 2. If, as Plaintiff alleges, the fictitious entities are ultimately determined to be
 22 pseudonyms for Defendant Hough, Defendant Hough has already filed her Answer and
 23 Joinder to Motion to Dismiss the Amended Complaint Against Thomas Moore, M.D.,
 24 Sarah B. Weinstein, Rachael E. Silver and Diedre Moore, which Hough filed as an
 25 alternative pleading in light of Plaintiff's claim that Hough used the . . .

26 . . .

27 . . .

1 foregoing names as false identities. As such, there is a responsive pleading filed on
2 behalf of Defendant Hough responding to the claims against the fictitious entities and
3 no basis to enter a default.
4

5 Dated this 4th day of August, 2006.

6 Respectfully submitted,
7 PATRICIA L. HOUGH, M.D.
8 By Her Attorneys,

9  For #9029

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11 Nathan Reinmiller, Esq.
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10 PATRICIA L. HOUGH, M.D.;
11 DAVID L. FREDRICK;
12 ASSOCIATION OF AMERICAN
13 INTERNATIONAL MEDICAL GRADUATES, INC.,
14 SABA UNIVERSITY SCHOOL OF MEDICINE
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16 CONSULTANTS, INC., EDUCATIONAL
17 INTERNATIONAL CONSULTANTS, LLC, and
18 PANKAJ DESAI, M.D.

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16 (CAYMAN) LTD., a Cayman Islands company,)
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20 vs.)
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22 SABA UNIVERSITY SCHOOL OF)
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24 Antilles company; MEDICAL UNIVERSITY)
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28 corporation; EDUCATIONAL INTERNATIONAL)
CONSULTANTS, LLC, a Massachusetts)
limited liability company; PATRICIA L. HOUGH,)
M.D. an individual, and d.b.a. "Saba University)
School of Medicine"; DAVID L. FREDRICK, an)
individual; PANKAJ DESAI, M.D., an individual;)
ASSOCIATION OF AMERICAN)
INTERNATIONAL MEDICAL GRADUATES,)
INC., a Nevada corporation, a.k.a.)
"aaimg@yahoo.com"; THOMAS MOORE, M.D.)

1 a.k.a. "presaaimg@hotmail.com" and)
 2 "crocdoc2004@netzero.net," an individual;)
 3 SARAH B. WEINSTEIN a.k.a.)
 4 "execsecaaimg@hotmail.com," an individual;)
 5 RACHAEL E. SILVER, an individual; and)
 6 DIEDRE MOORE, an individual,)
 7 Defendants.)

7 **MEMORANDUM IN SUPPORT OF**
 8 **MOTION OF PATRICIA L. HOUGH TO REMOVE DEFAULT**
 9 **OF SARAH WEINSTEIN, RACHAEL SILVER, DIEDRE MOORE**
 10 **AND THOMAS MOORE, M.D.**

10 Plaintiff's Amended Complaint alleges that "Thomas Moore, Sarah Weinstein,
 11 Rachael Silver, and Diedre Moore are fictitious identities fabricated and used by
 12 Defendants Hough [and others]" See Amended Complaint, paragraph 65. If, as
 13 Plaintiff alleges, the foregoing individuals do not exist but rather are fictitious identities,
 14 there is no purpose in entering a default judgment against them because a default
 15 judgment against fictitious entities would be a nullity. While an action may be brought
 16 by a "John Doe" plaintiff that in fact exists, there can be no actual case or controversy
 17 with fictitious entities because no enforceable judgment can be entered with respect to
 18 fictitious entities. North Carolina v. Rice, 404 U.S. 244, 246 (1971). ("Federal courts are
 19 without power to decide cases that cannot affect the right of litigants before them.") A
 20 justiciable case or controversy only exists between a plaintiff and defendant when the
 21 plaintiff's "injury is fairly traceable to the challenged action of the defendant and ...it is
 22 likely...that the injury will be redressed by a favorable decision." S.D. Myers, Inc. v.
 23 County of San Francisco, 253 F.3d 461, 474 (9th Cir. 2001). There could be no more
 24 meaningless judicial act with no affect on the rights of either party than a judgment
 25 against a fictitious entity. A plaintiff suing a fictitious party cannot collect damages or
 26 other relief from a non-existent person or have suffered or be threatened with an actual

1 injury traceable to a fictitious defendant which can be redressed by a favorable judicial
2 decision. For this reason, this Court should vacate the default judgment against each
3 of the above-named parties, and require Plaintiff to show that there is in fact a
4 justiciable case or controversy by showing that those individuals are not, as it alleges in
5 its Amended Complaint, fictitious identities before considering Plaintiff's motion for
6 default.
7

8 If, as Plaintiff alleges, the fictitious entities are ultimately determined to be
9 pseudonyms for Defendant Hough, Defendant Hough has already filed her Answer and
10 Joinder to Motion to Dismiss the Amended Complaint Against Thomas Moore, M.D.,
11 Sarah B. Weinstein, Rachael E. Silver and Diedre Moore which Hough filed as an
12 alternative pleading in light of Plaintiff's claim that Hough used the foregoing names as
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1 false identities. Thus, if the fictitious entities are determined to be Hough, there is no
2 basis to enter a default because the claims against the fictitious entities have been
3 answered by Hough.
4

5 **CONCLUSION**

6 Based upon the foregoing, Patricia L. Hough respectfully requests that this
7 Honorable Court grant the instant Motion to Remove Default of Sarah Weinstein,
8 Rachael Silver, Diedre Moore and Thomas Moore, M.D.

9 Dated this 4th day of August, 2006.
10

11 Respectfully submitted,
12 PATRICIA L. HOUGH, M.D.
13 By Her Attorneys,

14  FOR #9029

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CERTIFICATE OF SERVICE

I hereby certify that on this 4th day August, 2006 a copy of the foregoing
**MOTION OF PATRICIA L. HOUGH TO REMOVE DEFAULT OF SARAH WEINSTEIN,
RACHAEL SILVER, DIEDRE MOORE AND THOMAS MOORE, M.D and
MEMORANDUM IN SUPPORT OF MOTION OF PATRICIA L. HOUGH TO REMOVE
DEFAULT OF SARAH WEINSTEIN, RACHAEL SILVER, DIEDRE MOORE
AND THOMAS MOORE, M.D** was electronically mailed to the following:

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